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Robert Stevenson, Ph.D

April 7, 2020

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Lone Star Technological Innovations, Inc.

vs.

Asustek Computer, Inc.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

LONE STAR TECHNOLOGICAL	§	
INNOVATIONS, INC.,	§	
	§	
Plaintiff,	§	
	§	CIVIL ACTION
v.	§	
	§	NO.: 6:19-cv-00059-RWS
ASUSTEK COMPUTER, INC.,	§	
	§	
Defendant.	§	

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ORAL VIDEOCONFERENCE DEPOSITION OF

ROBERT STEVENSON, Ph.D.

APRIL 7, 2020

VOLUME 1 OF 1  
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ORAL VIDEOCONFERENCE DEPOSITION OF ROBERT STEVENSON, Ph.D., produced as a witness at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on April 7, 2020, from 1:33 p.m. to 4:01 p.m., via videoconference, before April R. Brunson, CSR in and for the State of Texas, reported by machine shorthand, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

## 1 A P P E A R A N C E S

2

3 FOR THE PLAINTIFF:

4 Mr. John Lee  
5 BANIE & ISHIMOTO, L.L.P.  
6 3705 Haven Avenue  
Suite 137  
7 Menlo Park, California 94025  
650.241.2771  
650.241.2770 (Fax)  
jlee@banishlaw.com  
8 (Appearing via teleconference.)

9

10 FOR THE DEFENDANT ASUSTEK COMPUTER, INC.:

11 Mr. Andrew T. Oliver  
12 AMIN, TUROCY & WATSON, LLP  
160 West Santa Clara Street  
Suite 975  
13 San Jose, California 95113  
650.393.0634  
14 aoliver@atwiplaw.com  
(Appearing via teleconference.)

15

16

17 FOR THE DEFENDANT BARCO N.V.:

18 Mr. Edward K. Runyan  
NEUSTEL LAW OFFICES, LTD  
2534 South University Drive  
19 Suite 4  
20 Fargo, North Dakota 58103  
701.281.8822  
701.237.0544 (Fax)  
21 edward@neustel.com  
(Appearing via teleconference.)

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1 P R O C E E D I N G S

2 (Proceeding commenced at 1:33 p.m.)

3 THE REPORTER: Now on the record, today  
4 is April 7, 2020. The time is 1:33 p.m. This is the  
5 oral deposition of Robert Stevenson, and it is being  
6 conducted remotely via videoconference, in the matter of  
7 Lone Star Technological Innovations, LLC, versus Asustek  
8 Computer, Inc., Civil Action Number 6:19-cv-00059-RWS.

9 My name is April Brunson, Certified  
10 Shorthand Texas Reporter Number 7495. I am  
11 administering the oath and reporting the deposition  
12 remotely by stenographic means. The witness has been  
13 identified to me through attestation of counsel.

14 Will counsel please state your  
15 appearances for the record, and then I will swear in the  
16 witness.

17 MR. LEE: John Lee of the firm Banie &  
18 Ishimoto, LLP, on behalf of Plaintiff Lone Star  
19 Technological Innovations, LLC.

20 MR. RUNYAN: Edward Runyan with Neustel  
21 Law Offices, Ltd., on behalf of Defendant Barco N.V.

22 MR. OLIVER: This is Andrew Oliver with  
23 Amin, Turocy & Watson representing Asustek Computer,  
24 Inc.

25 ROBERT STEVENSON, Ph.D.,

1 having been first duly sworn, testified as follows:

2 EXAMINATION

3 BY MR. LEE:

4 Q. Yes. Dr. Stevenson, this is John Lee. Good  
5 afternoon.

6 **A. Good afternoon.**

7 MR. RUNYAN: John -- John, may I -- a  
8 point of order while we're on the record so I don't  
9 forget, I would like to go on the record to request  
10 reading and signing of the transcript.

11 MR. LEE: Okay.

12 MR. RUNYAN: Sorry for interrupting.

13 Q. (BY MR. LEE) Dr. Stevenson, is there anything  
14 that impacts the truthfulness or voracity of your  
15 statement today?

16 **A. No, I don't believe so.**

17 Q. I will be asking questions. Your counsel may,  
18 from time to time, lodge objections. Absent  
19 instructions from counsel to not answer on the basis of  
20 privilege, after those objections are lodged, you are  
21 required to answer my questions.

22 (Exhibit 1 introduced.)

23 Q. (BY MR. LEE) I'm introducing the -- as  
24 Exhibit 1 the amended Notice of Deposition of Robert  
25 Stevenson, and that's on your screen right there. Do

1     you see that, Dr. Stevenson?

2           **A.     Yes.**

3           Q.     And what is your understanding of the -- your  
4     deposition testimony today? Why are you being deposed  
5     today?

6                     MR. RUNYAN: Objection, vague.

7           **A.     I wrote a declaration, and my understanding is**  
8     **you have an opportunity to ask me questions about that**  
9     **declaration.**

10          Q.     (BY MR. LEE) Okay. When were you retained to  
11     serve as a expert in this case?

12          **A.     I certainly don't recall the specific date.**  
13     **It was a couple months ago.**

14          Q.     Who contacted you to work on this case?

15          **A.     I believe the first contact was from Ed**  
16     **Runyan.**

17          Q.     And who retained you to serve as an expert on  
18     this case?

19          **A.     I mean, I'd probably have to go back and look**  
20     **at an engagement letter to know, you know, maybe**  
21     **specifically. But I certainly went back and forth with**  
22     **Mr. Runyan about the issues about getting engaged.**

23          Q.     Do you know whether you've been retained by  
24     Barco or Asustek to represent in this matter?

25          **A.     I probably would have to see if there's an**



1     **engagement letter to look at. I mean, my understanding**  
2     **is I'm, you know, working for both, I guess, but I'm not**  
3     **sure about that.**

4           Q.     The declaration that you submitted, when were  
5     you contacted to -- to work on that declaration to  
6     submit that testimony?

7                     MR. RUNYAN: Objection, vague.

8           **A.     Again, I certainly don't have a specific date**  
9     **that I would recall. It came up relatively early in the**  
10    **conversations I had, so a little while ago.**

11          Q.     (BY MR. LEE) How much time did you spend  
12    working on the declaration?

13          **A.     I don't know. I'd have to go back and look at**  
14    **my billing records.**

15          Q.     What did you do to prepare for your deposition  
16    today?

17          **A.     Do you mean like what I did in the past day or**  
18    **two or since I started working on the case?**

19          Q.     Since you were notified that you had to  
20    testify at this deposition.

21          **A.     I reviewed my declaration, and I -- I looked**  
22    **at the patent.**

23          Q.     How much time did you spend looking at your  
24    declaration and at the patent in preparing for this  
25    deposition?

1           A.    You know, I can tell you, in the past day or  
2   two, I probably spent on the order of four to six hours.

3                    Sorry, my -- sorry, my screen went blank.  
4   I guess I have to touch it every once in a while or else  
5   I won't see things. I'm sorry. What was your next  
6   question?

7           Q.    You said in the past day or two, you spent  
8   four to six hours preparing for this deposition. Did  
9   you spend any -- any time before the past day or two in  
10   preparing for your deposition?

11          A.    I'd have to go back and look at my records to  
12   see if I -- you know, it feels like I was first told  
13   about this maybe a week or two ago. I don't know if I  
14   did anything initially or not. I don't recall.

15          Q.    Did you speak with anybody in preparing for  
16   this deposition?

17          A.    I spoke a little bit with Mr. Runyan.

18          Q.    When did you speak with Mr. Runyan?

19                   MR. RUNYAN: Objection, calls for  
20   privileged information, vague.

21                   MR. LEE: So I believe asking the  
22   specific time would be similar to the privilege log.  
23   I'm not asking him to disclose the contents of that.

24                   MR. RUNYAN: He can answer to the extent  
25   that no -- no work product or privileged information is

1 revealed.

2 Q. (BY MR. LEE) Dr. Stevenson, can you answer  
3 when you spoke with Mr. Runyan in preparing for this  
4 deposition?

5 A. I recall a relatively short conversation,  
6 maybe towards the end of last week, and then a -- I had  
7 a conversation yesterday.

8 Q. How much time did you spend talking with  
9 Mr. Runyan at the end of last week?

10 MR. RUNYAN: Objection, relevance.

11 Q. (BY MR. LEE) Please answer.

12 A. I mean, I don't recall. Probably no more  
13 than, like, five or ten minutes.

14 Q. And when you spoke with Mr. Runyan yesterday,  
15 how much time did you speak with -- how long did you  
16 speak with him?

17 A. It was probably a little bit longer, but it  
18 was probably still something like no more than, like,  
19 15 minutes.

20 Q. Besides Mr. Runyan, did you speak with anybody  
21 else about this -- in preparing for this deposition?

22 A. Certainly not since I've been noticed for the  
23 deposition, no.

24 Q. So you haven't spoken with Mr. Andrew Oliver  
25 or Vinay Joshi in preparing for this deposition?

1           **A. If they were participating in a call, I**  
2       **certainly don't -- I don't believe they participated in**  
3       **any call. I believe Mr. Runyan is the only person I've**  
4       **talked to in the past week or two. Before then, I don't**  
5       **really recall if they even participated in anything.**

6           Q. I'm marking as Exhibit Number 2 the  
7       Declaration of Robert Stevenson.

8                               (Exhibit 2 marked.)

9           Q. (BY MR. LEE) Dr. Stevenson, do you recognize  
10       this document?

11          **A. Yes, I do.**

12          Q. What is this document?

13          **A. It looks to be my declaration that I submitted**  
14       **in this case.**

15          Q. Who did you speak with in preparing this  
16       declaration?

17                           MR. RUNYAN: Objection, vague, lacks  
18       foundation.

19          **A. My recollection is I -- I primarily spoke with**  
20       **Mr. Runyan.**

21          Q. (BY MR. LEE) Did you speak with any of  
22       Asustek's counsel, such as Mr. Vinay Joshi, Mr. Andrew  
23       Oliver?

24          **A. I don't recall. You know, maybe they**  
25       **participated in some phone call. I don't know. I don't**

1     **recall really talking to them, certainly -- certainly**  
2     **not substantively about anything.**

3           Q.     Did you communicate to either Mr. Joshi or  
4     Mr. Oliver via e-mail?

5           A.     **They might be cc'd on some messages. I don't**  
6     **recall.**

7           Q.     Turning your attention, Dr. Stevenson, to  
8     paragraph number 1 of your declaration, it speaks that  
9     you've been retained by Complainant Barco N.V.; is that  
10    accurate?

11          A.     **I believe so.**

12          Q.     So you have not been retained by Asustek in  
13    this case; is that correct?

14          A.     **Well, that paragraph doesn't say that. And as**  
15    **I answered before, I don't really recall. I'd have to**  
16    **go and look at something to see if I have some sort of**  
17    **engagement letter with them.**

18          Q.     If you -- if Asustek retained you, wouldn't  
19    you have put it -- that in this paragraph?

20          A.     **I might have. You know, it's not there.**  
21    **Maybe -- you know, without going back and looking at**  
22    **other records, I can't tell you why it's not there. I**  
23    **just don't have a recollection.**

24          Q.     Who drafted this declaration, Dr. Stevenson?

25          A.     **I did.**

1           Q.    How much time did you spend drafting this  
2    declaration?

3           A.    **I don't recall. I'd have to go back and look**  
4    **at my records.**

5           Q.    Can you give me an estimate of how much time  
6    you spent?

7                   MR. RUNYAN:  Objection, relevance.

8           Q.    (BY MR. LEE)  You can answer.

9           A.    **I know I worked -- sorry?**

10          Q.    If you can answer the question, please do so.

11          A.    **I know I spent several hours on multiple days,**  
12   **several hours each day on multiple days. I don't know**  
13   **what the total would be. Certainly more than 10,**  
14   **probably less than 50.**

15          Q.    This declaration was submitted on March 16th.  
16    When did you start working on this declaration?

17                   MR. RUNYAN:  Objection, relevance.

18          A.    **I'd -- I'd have to go back and look at my**  
19   **records. My, you know, sense is it was a week or two**  
20   **before.**

21                   **Actually, my recollection is it might**  
22   **have been due originally earlier than that, and it was**  
23   **like a week or two before that earlier date that I**  
24   **started.**

25          Q.    (BY MR. LEE)  And you estimate somewhere

1 between 10 to 50 hours is the amount of time you spent  
2 in -- after you were asked to draft the declaration to  
3 when you signed it?

4 **A. That's a very rough estimate. I just don't --**  
5 **you know, I don't keep track of it in my mind, those**  
6 **sort of things. You know, I have records, obviously, I**  
7 **can go back and look at, but you know, that's just a**  
8 **vague sense of, sort of, the time.**

9 Q. How often do you submit your bills to -- to  
10 Barco?

11 MR. RUNYAN: Objection, relevance.

12 **A. I mean, I don't know what I've done so far.**  
13 **My general practice is to try to do it once a month. I**  
14 **don't always do it every month but usually at least**  
15 **every other month. A lot of strange things going on**  
16 **right now, so you know, I'm not sure I'm doing my normal**  
17 **either, though, so...**

18 Q. (BY MR. LEE) This declaration was submitted  
19 on March 16th. Have you submitted the bill for this  
20 work to Barco yet?

21 MR. RUNYAN: Objection, assumes facts,  
22 lacks foundation, irrelevant.

23 **A. I believe so.**

24 Q. (BY MR. LEE) But you don't recall how much  
25 you've spent time-wise from those billing records that

1     you just recently submitted?

2                     MR. RUNYAN:  Objection --

3             **A.     No.**

4                     MR. RUNYAN:  -- vague, assumes facts,  
5     misstates testimony.

6             **A.     No.  I don't have that invoice memorized, so I**  
7     **don't know how -- how it's broken up and what portion of**  
8     **the time was spent on this declaration.**

9             Q.     (BY MR. LEE)  Have you ever worked with  
10    Mr. Runyan before, serving as a consultant for Barco?

11            **A.     Yes, I have.**

12            Q.     In what other matters have you worked with  
13    Mr. Runyan?  If you could, provide a description.

14            **A.     I recall two matters.  One was some previous**  
15    **work for Barco.  That was quite a while ago.  I don't**  
16    **know; probably more than five years ago.**

17                    **And the other one, I believe, was work**  
18    **for -- I want to say Nintendo.  I'm not sure I've got**  
19    **the right case, though.**

20            Q.     Besides those two matters, do you recall of  
21    any other matters you worked with Mr. Runyan on?

22            **A.     I don't believe there's anything else, you**  
23    **know, that I -- of substance.  I did a fair amount of**  
24    **work.  You know, there's times I've been hired by people**  
25    **that, you know, they hire me and then I never -- nothing**



1     **ever comes of it, so I never -- it really doesn't stick**  
2     **in my mind at all if I don't do any work. I think those**  
3     **are the only two matters that, you know, I did some work**  
4     **on. There might be something else out there that, you**  
5     **know, I really didn't work on, but you know, maybe I'm**  
6     **technically engaged by -- by them. I just don't know.**

7           Q.     Have you ever worked with defendants' counsel  
8     Mr. Joshi or Mr. Oliver in prior matters?

9           A.     **I don't recognize the names, so I don't**  
10    **believe so.**

11          Q.     Where are you currently employed,  
12    Dr. Stevenson?

13          A.     **The University of Notre Dame.**

14          Q.     And how long have you worked at the University  
15    of Notre Dame?

16          A.     **In August, it will be 30 years.**

17          Q.     Besides working at University of Notre Dame,  
18    are you employed by anybody else currently?

19          A.     **Other than just these consulting engagements I**  
20    **sometimes do.**

21          Q.     How much of your time does the consulting  
22    matters -- do they occupy your time compared to working  
23    at Notre Dame?

24          A.     **You know, to give you specific numbers, I'd**  
25    **have to look at some records. My -- you know, my rough**

1 estimate would be I spend about 75 percent of my time on  
2 my Notre Dame activities and 20 to 25 percent on these  
3 other sort of activities.

4 Q. In submitting your declaration, Dr. Stevenson,  
5 you also submitted an Exhibit A. I'm turning your  
6 attention to the screen there. Do you recognize what  
7 Exhibit A is?

8 A. Yes.

9 Q. What is it?

10 A. It's a copy of what I refer to as my academic  
11 CV from February 3rd, 2020.

12 Q. And the CV lists your qual- -- your  
13 professional experience, your education, publications,  
14 talks you've had. It's quite an extensive list there.  
15 Is this meant to be an identification of all of the  
16 publications that you've worked on, that you've  
17 authored, the talks? Are they -- I'm just trying to get  
18 an understanding of what the CV covers.

19 MR. RUNYAN: Objection, vague, compound.

20 A. Well, first I would -- I would point you to  
21 the last page which is dated February 3rd, 2020, so  
22 anything more recent than that certainly wouldn't be on  
23 this copy of the CV. This is something I update very  
24 frequently.

25 Certainly, my attempt is to capture all of

1     **my activities -- all my academic activities. Every once**  
2     **in a while, I find something that escaped, and I put it**  
3     **on there. So it's my best attempt at being complete,**  
4     **but I find it not always is.**

5           Q.     (BY MR. LEE) And in Exhibit B, it's a  
6     document that lists your litigation experience. Is that  
7     something that you prepared as well?

8           **A.     Yes.**

9           Q.     On page 3, it lists a November 6 [sic], 2019,  
10    date?

11          **A.     Yes.**

12          Q.     Are there any other litigation experience  
13    between November 26, 2019, and now that's not listed in  
14    this Exhibit B?

15          **A.     I don't believe so.**

16          Q.     What sort of -- what material did you rely on,  
17    Dr. Stevenson, in preparing and submitting this  
18    declaration?

19          **A.     Well, primarily, it was about the patent and**  
20    **its file history. That was the -- kind of my primary**  
21    **go-to source, you might say.**

22                   But certainly I relied on the fact that  
23    I've been working in this area for over 30 years, and I  
24    work with people and educate people who work in this  
25    area, so certainly I'm pulling on the -- my knowledge

1     **about their activities and what they know.**

2           Q.     So you relied on reviewing the '435 patent,  
3     its file history, and your experience and knowledge in  
4     this field?

5           A.     **That's primarily the things I relied on for**  
6     **this declaration.**

7           Q.     What else did you rely on that --

8           A.     **Those are the things that -- those are the**  
9     **things that come to mind. I mean, if I cited something**  
10    **else -- if I relied on something else, I certainly would**  
11    **have cited it within the declaration.**

12          Q.     Okay. And that's consistent with the  
13    paragraph 1 in -- that sentence in the middle of that  
14    paragraph: The expert opinions that I've set forth in  
15    my declaration are based upon my knowledge in the field,  
16    the patents at issue in this investigation, the file  
17    history of the patents at issue in this matter. Is that  
18    correct?

19          A.     **Yes.**

20          Q.     If I could turn your attention to paragraph 7  
21    of your declaration, Dr. Stevenson. Let me know when  
22    you're there.

23          A.     **I'm there.**

24          Q.     You talk about your early -- the past  
25    30 years, focus on design techniques, hardware and

1 software for processing of digital signals using digital  
2 computing devices. The last sentence of that paragraph  
3 where it says: My early work on digital techniques for  
4 printing image capture devices led to significant  
5 interaction with companies developing desktop computer  
6 products in the early 1990s. I began trying to  
7 incorporate those ideas into their products.

8 Do you see that?

9 **A. Yes.**

10 **Q. Can you elaborate on that?**

11 **A. Well, the -- you know, in this time frame, you**  
12 **know, I was doing a lot of imaging work, and there**  
13 **wasn't much desktop imaging. There was some very**  
14 **high-end desktop publishing.**

15 **But for instance, around that time frame,**  
16 **I started working with Apple. They gave me some money**  
17 **and computers starting around '94, maybe, and they were**  
18 **interested in color aspects. There's a -- there's a**  
19 **color problem that everyone kind of feels differently**  
20 **about color. You know, red is not always red from**  
21 **device to device. And so how to manage that process**  
22 **was -- was their interest in working with me.**

23 **They had a digital camera at the time**  
24 **called the QuickTake. They were -- it was -- the color**  
25 **retention on it was horrendous, so I was working with**

1       them on that.

2                       And also at this time, I spent a summer at  
3 Intel in Oregon as part of their Pentium architecture  
4 group. This is the group that designs the Pentium chip,  
5 their main product. And at the time, they were trying  
6 to incorporate multimedia image and video-type signal  
7 processing better into the hardware. And so I was part  
8 of a video compression effort in looking at how to try  
9 to get better support in the Pentium architecture for  
10 such sorts of processing.

11                      Shortly after that, I started working with  
12 a company like Sun Microsystems. Somewhat similar, they  
13 were trying to get more video into their SPARC  
14 architecture.

15                      I also worked in the -- probably a little  
16 bit later, maybe '97, '98, with Motorola. They were  
17 starting -- you know, beginning to look at trying to do  
18 video over the cellular network, some of the challenges  
19 there in terms of the noise in the cellular channel and  
20 what happens to image and video when in that sort of  
21 environment.

22                      Those are just some of the examples.

23               Q.     Were there any specific products where your --  
24 where your work with these companies resulted in  
25 commercialization of products?

1           A.    Well, I certainly wasn't trying -- and I -- I  
2   wouldn't try to write production code. That's someone  
3   else's job. I was trying to bring in ideas and  
4   algorithms and develop new techniques that other people  
5   were putting into production code.

6                    The -- you know, the products that were  
7   associated with the group that I was working with, at  
8   Apple they had something called ColorSync, which was an  
9   add-on to their operating system.

10                   At Intel, there was a videoconferencing  
11   product. I think it was called ProShare, if I remember  
12   right.

13                   At Sun, it was about their SPARC  
14   architecture, and they had a -- what they called the  
15   visual instruction set. That was the thing they were  
16   adding into the SPARC architecture at the time that I  
17   was working with them on.

18           Q.    Turning your attention to page 5 of your  
19   declaration, paragraph 14, under the legal standard, you  
20   write: I'm not an attorney, but I have -- I have been  
21   informed by counsel of the following standards.

22                   Do you see that?

23           A.    Yes.

24           Q.    Who is the counsel that informed you of the  
25   standards, Dr. Stevenson?

1           **A. I've been doing this sort of consulting for a**  
2   **while, and this is my understanding from numerous**  
3   **counsel over the years. I couldn't list -- list them**  
4   **all.**

5           Q. So this is not something -- you know, the  
6   paragraphs following 14 are not something from current  
7   counsel that you've -- on this matter. But this is  
8   something from -- amalgam of your understanding from  
9   working with counsel in the past?

10          **A. Well, I would say it's kind of both. I mean,**  
11   **I've certainly reviewed this with the current counsel,**  
12   **but I know it's also, you know, in part, based on my**  
13   **knowledge from interactions with previous counsel.**

14          Q. Moving on to paragraph 15, if I can direct  
15   your attention to the first sentence: I am informed by  
16   counsel that claim construction begins with the words of  
17   the claim itself, which generally receive their ordinary  
18   and customary meaning as understood by a person of  
19   ordinary skill in the art at the time of -- at the time  
20   of invention, in the context of the specification and  
21   prosecution history.

22                           Do you see that?

23          **A. Yes.**

24          Q. What does -- what does ordinary and customary  
25   meaning mean to you?



1           **A.     The way I understand that, I'm supposed to,**  
2     **you know, put myself in the place of someone of ordinary**  
3     **skill in the art, which I provided a definition of what**  
4     **I felt was that later in this declaration, you know,**  
5     **with the knowledge they had, what they would understand**  
6     **based on reading the claims, having read the**  
7     **specification, having seen whatever went on in the file**  
8     **history, what they would think that the terms mean.**

9           Q.     And in moving to paragraph 16, you wrote that  
10    as well, correct?

11          **A.     I did what?**

12          Q.     You also wrote paragraph 16 of your  
13    declaration?

14          **A.     That's certainly my understanding. At least**  
15    **that's my understanding, yes.**

16          Q.     And what was the purpose of this paragraph 16?

17          **A.     Paragraph 15 or 16?**

18          Q.     16.

19                   MR. RUNYAN: Objection, calls for a legal  
20    conclusion.

21          **A.     I don't know. It's just a -- it's just a**  
22    **further explanation of my understanding of the law and**  
23    **how I'm trying to apply it.**

24          Q.     (BY MR. LEE) And the same would go to  
25    paragraph 17 as well, Dr. Stevenson?

1           **A.    Yes.  I'm just trying to lay out there, so I'm**  
2   **explaining how I understand and how I looked at the --**  
3   **you know, the tasks set forth in this declaration.**

4           Q.    Are there any -- are there any other legal  
5   principles that you're relying on for claim construction  
6   that you have not stated in this declaration?

7                   MR. RUNYAN:  Objection, vague, calls for  
8   a legal opinion.

9           **A.    What -- what is a legal principle?**

10          Q.    (BY MR. LEE)  Well, you -- the principles you  
11   put forth in paragraphs 15, 16 and 17, as I understand  
12   from your testimony, those are the principles that  
13   you're using for claim construction in forming your  
14   opinions in this declaration.

15                  MR. RUNYAN:  Objection, vague, compound,  
16   mischaracterizes testimony.

17          **A.    You know, I don't know what constitutes a**  
18   **legal principle.  It seems like -- that sounds like**  
19   **something that has a specific meaning to, maybe, a**  
20   **lawyer.**

21                  What I put in these paragraphs was trying  
22   to explain, you know, based on my understanding, what  
23   has been told to me by counsel, you know, over the  
24   years, of how I should be going about, you know, forming  
25   the opinions I have in this case from a legal

1     **perspective.**

2                     **If you want to call them principles, okay.**

3     **I don't know what -- quite what you mean there.**

4             Q.     (BY MR. LEE) Was there anything else that  
5     you went by or relied upon that's not stated in  
6     paragraphs 15 to 17 of your declaration?

7                     MR. RUNYAN: Objection --

8             **A.     I'm not sure --**

9                     MR. RUNYAN: The document speaks for  
10    itself, asked and answered.

11            **A.     Yeah, I'm not sure how to answer that**  
12    **question. I'm trying to -- in these paragraphs, trying**  
13    **to explain how I understood the law and how I applied my**  
14    **understanding of the law to the task at hand.**

15                    **I don't know what things you're referring**  
16    **to, so I'm not sure exactly, you know, what constitutes**  
17    **something else I might have thought of.**

18            Q.     (BY MR. LEE) I guess what I'm asking is,  
19    you've -- paragraphs 15 to 17 is your understanding of  
20    the law, and that's what you've applied in formulating  
21    your opinions; is that correct?

22                    MR. RUNYAN: Objection, vague, misstates  
23    testimony, compound, lacks foundation.

24            **A.     I'm sorry. It sounds like you're drawing some**  
25    **legal line that I'm not sure I understand, so I'm not**

1     sure how to answer your question. I'm not a lawyer, so  
2     if you're drawing some sort of legal distinction, I'm  
3     not sure what you mean by it.

4                     What I'm doing in these paragraphs, as I  
5     repeated a couple times now, is I put down -- what I  
6     attempted to put down is my understanding of the law and  
7     how I applied it in forming -- you know, when I went to  
8     form my opinions later in this document.

9             Q.     (BY MR. LEE) My -- let me put this another  
10    way. Are there any understandings of the law that are  
11    not explicitly written in paragraphs 15 to 17 that  
12    impacted or formulated -- helped formulate your opinions  
13    in your declaration?

14            A.     I don't -- your question is so vague. I don't  
15    know what you mean by "understandings of the law."

16                     You know, I tried to be as clear as I  
17    could in this paragraph. If there's something that's  
18    unclear or if there's something wrong, certainly, you  
19    could ask me about it. I don't know what other sorts of  
20    understandings -- I'm not sure what you consider a  
21    different understanding. You know, I didn't put down my  
22    entire brain process through -- in here. I tried to  
23    summarize it in a distinct, you know, clear way.

24            Q.     And paragraphs 18 and 19, under the subheading  
25    "Claim Indefiniteness," is that -- you're writing those

1 to kind of -- you were writing those to put down your  
2 understanding of what constitutes claim indefiniteness;  
3 is that correct?

4 **A. What I attempted to do --**

5 MR. RUNYAN: Objection, vague.

6 **A. What I attempted to do --**

7 MR. RUNYAN: Compound.

8 **A. Sorry.**

9 **What I attempted to do in those two**  
10 **paragraphs was to summarize and put down my**  
11 **understanding of the legal -- you know, the legal -- my**  
12 **understanding of the legal process and how I were to**  
13 **apply that understanding to the work I was doing in this**  
14 **case.**

15 THE REPORTER: Would you repeat that  
16 objection? I'm sorry. The crosstalk, I didn't catch  
17 the objection.

18 MR. RUNYAN: I believe it was vague and  
19 compound.

20 Counsel, can I request, when you ask  
21 questions, you asked about multiple paragraphs, but  
22 you're only showing 18 here. Could you make sure  
23 they're all shown? Thank you.

24 MR. LEE: I will. And I also -- I will.

25 And Ed?

1 MR. RUNYAN: Yes.

2 MR. LEE: Can we -- you know, you've been  
3 making speaking objections. In the Eastern District of  
4 Texas, you're only allowed to object to form and object  
5 to privilege, so I would ask that you adhere to the  
6 protocol in the Eastern District of Texas.

7 MR. RUNYAN: I am.

8 Q. (BY MR. LEE) Turning your attention to  
9 paragraph 21, Dr. Stevenson, that -- you set forth, in  
10 your opinion, what the ordinary skill in the art for  
11 this patent should be; is that correct?

12 A. Yes.

13 Q. Can you walk me through your -- your opinion  
14 on the ordinary skill in the art and explain to me how  
15 you arrived at that conclusion?

16 A. I'm not sure what you mean by walk you  
17 through. I mean, I could -- I could read it to you.

18 Q. So you -- sure. You set forth where people  
19 with, one, at least a bachelor's degree in electrical  
20 engineering, computer science, applied mathematics or in  
21 an equivalent field, as well as at least one or two  
22 years of industry experience in the digital video system  
23 design.

24 Why, in your opinion, is that the -- one  
25 of ordinary skill in the art for this patent?

1           **A. Well, I think, if you read the following**  
2     **paragraph, it kind of lays out my -- my -- you know,**  
3     **what things I looked at and considered and, you know,**  
4     **how I arrived at that.**

5           Q. So -- and you're referring to the following  
6     paragraph, that's paragraph 22, and you wrote: I have  
7     reached this opinion regarding the level of ordinary  
8     skill in the art based on my review of the asserted  
9     patents and my personal experience in educating,  
10    supervising, and working with persons having the level  
11    of ordinary skill in the art around the time of  
12    invention of the asserted patents.

13                   Is that what you're referring to?

14           **A. Yes.**

15           Q. So why is it at least one or two years of  
16     industry experience in the digital video system design?  
17     What -- versus two to three or three to five, how did  
18     you decide on one to two?

19           **A. Well, I have a very good understanding of, you**  
20     **know, what someone who has just earned a bachelor's**  
21     **degree in electrical engineering, computer science, or**  
22     **applied mathematics, what they come out of school with,**  
23     **right. So I've worked with those sort of students, you**  
24     **know, for 30 years, so I know they don't have enough**  
25     **experience. You know, they -- the typical one certainly**

1 does not have any experience on the digital images and  
2 digital video and the concepts that cover that the  
3 patent is kind of built on. So I know that's not  
4 enough.

5 I also know that, if you work in that  
6 field, these are -- these are concepts that you would --  
7 you would come across relatively soon, in the first year  
8 or two of exposure to that field. So -- and so at that  
9 point, I think you would have a -- you know, be able to  
10 understand a patent. You would be able to learn from  
11 the patent. You would be what would be considered a  
12 person of ordinary skill in the art at that time.

13 Q. Subpart 2 of one of ordinary skill in the art  
14 you write is at least five years of comparable industry  
15 experience in digital video system design. What would  
16 be considered comparable industrial experience in  
17 digital video system design?

18 A. Well, I certainly, over the years, have worked  
19 with people who -- who didn't earn a bachelor's degree.  
20 They were more self-taught or they learned on the job,  
21 you might say. Some of those people were very skilled  
22 and, you know, very much contributed to the field, but  
23 they generally had much longer time in industry working  
24 on the, you know, technology before they gained that  
25 appreciation and understanding I think someone of



1     **ordinary skill in the art would have had, so that's why**  
2     **I came up with five years.**

3           Q.     And then the third part of your -- of the  
4     standard for one of ordinary skill in the art is an  
5     equivalent combination of academic study and work  
6     experience. Can you elaborate on that?

7           A.     Well, the -- again, as I said, there are some  
8     people who didn't have any higher education and yet I've  
9     seen make contributions in this area. There are some  
10    who went to school for a while, went in the industry,  
11    maybe didn't finish a degree. They got that equivalency  
12    somehow.

13                   There's also, if someone had done -- maybe  
14    they hadn't worked in the industry but they've done an  
15    advanced degree beyond a bachelor's degree specifically  
16    in the area of digital video, so maybe like a master's  
17    degree or, you know, partial Ph.D. in digital video. I  
18    think they would certainly be someone of ordinary skill  
19    in the art and would be able to appreciate the patent.

20           Q.     What does the word "characterize" mean to you,  
21    Dr. Stevenson?

22           A.     In the context of the patent, I didn't find it  
23    particularly clear.

24           Q.     Why didn't you find it particularly clear?

25           A.     Because they were -- in the claim, it was

1 referring to the characterization of a digital image or  
2 video maybe. I'd have to look at the claim to tell you  
3 for sure. And I didn't know what -- based on my review  
4 of the material what sort of characterization they were  
5 referring to.

6 Q. Is "characterizing" a technical term?

7 A. Not particularly. Not -- it wasn't introduced  
8 as a technical term in the -- in the patent.

9 Q. What do you -- what would you understand --  
10 what would you understand "characterizing" to mean?

11 A. Well, my basic problem is it could -- it's  
12 incredibly broad. Maybe you're characterizing the video  
13 as a comedy, drama, or musical. I don't think that, you  
14 know, is probably what the claim is going after, but  
15 based on the teachings of the patent, I don't know.  
16 Maybe that's enough of a -- some sort of  
17 characterization. That was kind of the crux of my  
18 problem with that term.

19 Q. And your opinion on characterizing is on  
20 page 9 of your declaration?

21 A. Looks like it begins on 9, ends on 10, yeah.

22 Q. Yes. What materials did you review in  
23 formulating your opinions on characterizing?

24 A. The materials we've already discussed.

25 Q. The '435 patent is something that you

1 reviewed?

2 **A. Yes.**

3 MR. RUNYAN: Objection, vague.

4 Q. (BY MR. LEE) Did you review the -- did you  
5 review the file history of the '435 patent in  
6 formulating your opinion on characterizing?

7 **A. Yes.**

8 Q. You also relied on your experience in the  
9 field of digital video -- digital video systems in  
10 formulating your opinion?

11 **A. Yes.**

12 Q. Did you rely on any other materials in  
13 formulating your opinion on characterizing?

14 **A. I don't recall anything else. If I had, I  
15 would have cited it in the document here.**

16 Q. So you did not review or consider materials  
17 from previous cases concerning the '435 patent?

18 **A. I recall at some point someone giving me a  
19 declaration from another expert in the '435. I believe  
20 I read it very early on. I couldn't tell you what the  
21 name was or what was -- what was discussed in that  
22 declaration. I don't know if this term was in there or  
23 not. I just -- I do recall looking at that at some  
24 point.**

25 Q. Did you rely -- did that declaration influence

1 your opinions in this case -- or in this declaration?

2 A. No. Like I said, I don't even recall what  
3 it said at this point. I just know it was something  
4 that was provided to me early on and I looked at it  
5 briefly.

6 Q. Was there any other materials that you  
7 reviewed that's not listed in your declaration?

8 A. At some point, I saw some sort of chart that  
9 basically had your proposed constructions, so I had an  
10 understanding of what the -- what Lone Star viewed the  
11 constructions were. That's the only other type of  
12 document I can remember looking at. And again, it  
13 didn't form my opinion at all. It just was information  
14 that I had access to.

15 Q. Did you have access to briefings from prior  
16 litigation cases concerning the '435 patent?

17 A. I don't recall anything that I would call a  
18 briefing. I recall this one declaration from this other  
19 expert. I don't believe I saw anything that looked like  
20 a briefing.

21 Q. Did you review any claim construction briefs  
22 and filings from prior cases concerning the '435 patent?

23 A. I don't believe so. I don't recall anything  
24 like that. I don't believe I had access to anything  
25 like that.

1 Q. Did you know that there was a Markman hearing  
2 concerning the '435 patent in a prior case?

3 A. I guess I don't know that. I had -- like I  
4 said, I had this conversation very early on about this  
5 other declaration. I might have been told something at  
6 that point. I recall looking at it. I certainly don't  
7 remember any of the details of the declaration or what  
8 happened in that prior case.

9 Q. Were you aware that in a prior case the court  
10 had a -- had a preliminary proposed construction for  
11 some of the claim terms at issue in this case?

12 A. I -- I don't -- I don't believe I ever heard  
13 something like that, no. Again, though, it could have  
14 been part of that very early conversation I had about  
15 this other declaration which I -- I don't remember  
16 anything about, really. I just know I -- I know I had  
17 access to it. I know I had some sort of conversation.  
18 I don't really remember what the contents of the  
19 conversation was.

20 Q. So for this declaration, what you've -- your  
21 opinion is based upon the '435 patent, its file history,  
22 and your industry experience?

23 A. Yes. As I said, those are the things I -- I  
24 primarily relied on, the only thing I can think I relied  
25 on. If I relied on anything else, it's certainly in my

1 practice to cite those things. Without rereading  
2 everything, I couldn't tell you if it's everything I  
3 cited. If it's not cited, I don't think there's  
4 anything else.

5 Q. All right. I just want to be clear I  
6 understand. When you say "primarily," is there  
7 something else you secondarily relied on?

8 A. Well, that's why I -- that's why I cleared up  
9 what I meant by that. As soon as I said that, I knew  
10 that word was going to catch your attention.

11 What I'm -- what I'm trying to say is  
12 those are the big things that certainly come to mind  
13 right away. If there's something that would be minor, I  
14 would have cited it someplace else. If I -- without  
15 rereading the entire declaration, which I can do, I  
16 don't recall any cites. If there is a cite, that would  
17 be something I also looked at. But without rereading, I  
18 don't know. I don't believe so because I don't recall  
19 it, but...

20 Q. When you -- if I can turn your attention to  
21 paragraph 24. What do you mean by when you wrote, "As  
22 such, applicants of the '435 patent created this term to  
23 attempt to describe the alleged invention,"  
24 Dr. Stevenson?

25 A. Are you asking me what did I mean by that

1     **sentence?**

2           Q.     Yes.

3           A.     Well, what I'm trying to get across -- and I  
4     think maybe to fully appreciate what I'm saying there,  
5     you have to look at the term in the context of the  
6     claim. The -- it's being used in a -- I don't know what  
7     you want to call it -- a kind of a technical way. You  
8     have to do something to the image. You have to  
9     characterize. So it's being used as a technical -- in a  
10    sort of technical way in the structure of the claim, but  
11    it doesn't -- it doesn't have any particular technical  
12    meaning, and yet, they're introducing it some way.

13                   I looked at the specification to try to  
14    understand what they might mean by that, and there's  
15    just nothing in the specification that talks about the  
16    characterization of a digital image, so I -- that's why  
17    I'm kind of left to no -- unknown as what they mean by  
18    that term.

19           Q.     In paragraph 25 -- in paragraph 25, it says --  
20    you write: Parts of the specification discuss colors or  
21    color components as being characterized by linear  
22    combinations of the basic colors red, green, and blue.

23                   Doesn't that provide you with guidance on  
24    what characterizing means?

25           A.     It provides guidance of what they might

1     technically mean about characterizing a color. But  
2     that's not what's being characterized in the claim. So  
3     if the claim had something about characterizing the  
4     color, I would probably look to those parts of the  
5     specification to understand what was being referred to.  
6     But that's not the claim language. The claim language  
7     is about characterizing a digital image, and so then  
8     I'm -- this is where I'm left not knowing what they  
9     mean.

10        Q. But when you're characterizing linear --  
11     linear combinations of red -- basic colors of red,  
12     green, and blue, aren't you characterizing a digital  
13     image?

14        A. No. You're characterizing a color, as the --  
15     as the patent clearly states.

16        Q. And a color is part of an image, isn't it?

17        A. Not necessarily, no.

18        Q. Why do you say that?

19        A. You could have a color fabric. Fabric can be  
20     a color and has nothing to do with a digital image at  
21     all, so I'm not sure why that's confusing. Color is  
22     color. It's not a digital image. It's something  
23     different.

24        Q. Digital image doesn't have color? Is that  
25     what you're saying?



1           **A.     Some digital images we refer to as having**  
2     **color.   Not all.**

3           Q.     What digital image doesn't have color?

4           **A.     There's lots.   There's -- you know, certainly,**  
5     **you could start with black and white images, intensity**  
6     **images.   I use --- I do a lot of thermal images in my**  
7     **work, so they don't have color.   We also do things that**  
8     **we call using pseudocolor when we're talking with**  
9     **hyperspectral images.   So a lot of images don't have**  
10    **color.**

11          Q.     What is your understanding of characterizing  
12     to mean in the normal context?

13                   MR. RUNYAN:   Objection, vague.

14          **A.     I don't know what you mean by "normal**  
15     **context."**

16          Q.     (BY MR. LEE)   If we were not talking about the  
17     patent and I asked you to define "characterizing," how  
18     would you define it?

19          **A.     I'd probably have to give some thought to**  
20     **that.   I haven't tried to define it outside the context**  
21     **of the patent.**

22          Q.     In paragraph 10 of your declaration, you write  
23     in the last sentence of the paragraph:   In the course --  
24     in this course, I covered many topics related to digital  
25     video systems including concepts of color, its

1 modification, and its characterization using attributes  
2 such as hue and saturation.

3 What does "characterization" mean there?

4 A. Well, I'm specifically talking about color, so  
5 I'm talking about the same sort of ideas that are talked  
6 about in the patent in terms of characterizing the  
7 color. Specifically, you know, I even mentioned hue and  
8 saturation, so I'm using it the same way the patent is  
9 using it.

10 Q. You're using it the same way as the patent is  
11 using it; is that what you just stated, Dr. Stevenson?

12 A. In terms of it talks about -- as we already  
13 discussed, the patent talks about how it characterize --  
14 how color can be characterized. In the patent, they  
15 talk about red, green, and blue. You know, hue and  
16 saturation are another type of characterization of  
17 color.

18 Q. So you understand what "characterization"  
19 means in paragraph 10 of your declaration?

20 A. Yes.

21 Q. And what does it mean in paragraph 10 of your  
22 declaration?

23 A. Well, as I'm talking about here in this  
24 paragraph 10, I'm talking about color, and I'm talking  
25 about some of the things we can -- we can do in order to

1 describe its characteristics that are, you know, maybe  
2 relevant to something. So the characteristics I'm  
3 talking about here are hue and saturation, so I view  
4 those as characteristics of color.

5 Q. And characterization as you've used it on  
6 paragraph 10 is not indefinite?

7 MR. RUNYAN: Objection, calls for a legal  
8 conclusion, irrelevant in the con- -- out of context.

9 A. You know, look, I recognize that the word  
10 "characterization" is an English word that can be  
11 properly used in English. My problem is, within the  
12 patent, in the context of the patent and specifically  
13 the context of how it's used in the claims, it's used in  
14 a technical way because they're talking about  
15 characterization of a digital image and I don't know  
16 what that means there.

17 If it -- if it had provided any example, I  
18 could maybe say something about it, but there's  
19 nothing -- like I said, you know, in my prior example,  
20 maybe a characterization of a video to someone may mean  
21 a comedy, a drama, or a musical. That doesn't seem like  
22 that should fall within the scope of the patent based on  
23 the teachings of the patent, so I have a problem with  
24 understanding the scope of the patent. It feels like  
25 that term is indefinite because I don't understand the

1 scope of it because of the use of that word in the  
2 context they put it in in the claim.

3 Q. (BY MR. LEE) Is there anything from a -- in  
4 the '435 patent that would lead you to believe that  
5 characterization or characterizing would mean  
6 characterizing a drama or a comedy?

7 A. Well, you know, that is the basic -- my basic  
8 problem. There's nothing in the patent that would lead  
9 me to attribute anything to it, so that's -- that's the  
10 crux of the issue. There's nothing there. There's  
11 nothing about -- that talks about how one might  
12 characterize a digital video. And as a result, I think  
13 the term is indefinite as it's used in the claim.

14 Q. You said on paragraph 25 -- and that's two  
15 cites to the '435 patent: Column 6, 44 to 46 and 40 to  
16 50. Are those your support in the patent to support  
17 your position?

18 A. Well, what I'm doing in paragraph 25, because  
19 I expected this would be the sort of response, you know,  
20 someone else would say, which is, the word  
21 "characterization" is used in the patent, and so I  
22 talked about it. I talked about how it was used in the  
23 patent in this paragraph. And this is the only places  
24 where I found that -- the word being used, I understood  
25 something from it, and I understood that it was

1     **character- -- you know, how the patentee looked at**  
2     **characterizing a color.**

3           Q.     So why wouldn't you understand characterizing  
4     to mean -- to mean characterizing of colors or color  
5     components characterized by linear combination of basic  
6     colors, red, green, blue, and RGB space? Doesn't that  
7     provide the guidance on how to characterize the digital  
8     image?

9                     MR. RUNYAN: Objection, vague, compound,  
10    argumentative.

11           A.     No. It doesn't in any way provide a limited  
12    scope that I would understand. You know, there's lots  
13    of things I could -- you could talk about a digital  
14    image that I don't believe, you know, the patentee  
15    talked about at all. I'm not sure why I would just  
16    select these, this one particular thing.

17           Q.     (BY MR. LEE) I'm marking as Exhibit 3  
18    U.S. Patent Number 6,724,435.

19                     (Exhibit 3 marked.)

20           Q.     (BY MR. LEE) You cited to Column 6 in your  
21    declaration on characterizing; is that correct,  
22    Dr. Stevenson?

23           A.     I believe we just saw that.

24           Q.     And you didn't cite to anywhere else in the  
25    '435 patent on characterizing; is that correct?

1           **A. I mean, we'd have just to reread my section to**  
2   **see if I did or not. Do you want me to reread?**

3           Q. Sure. Please do.

4           **A. That seems to be the -- where I cite to talk**  
5   **about -- you know, point out where they do talk about**  
6   **characterization.**

7           Q. And that's your only citation in the -- to the  
8   '435 patent for characterizing; is that correct?

9           **A. Well, I think you're making my point for me.**  
10   **The patent doesn't talk about characterizing the digital**  
11   **image, so there is no cites because the patent doesn't**  
12   **talk about it, and that's the crux of the problem as to**  
13   **why I believe it's indefinite.**

14          Q. When we go to Column 1 of the '435 patent,  
15   lines 42 to 45, different formats are used for  
16   characterizing colors or color components in a real time  
17   digital video image.

18                   You don't consider that being instructive  
19   on how to characterize a digital video image,  
20   Dr. Stevenson?

21          **A. No, I don't.**

22          Q. You made the statement earlier that the  
23   '435 patent doesn't talk about characterizing anywhere  
24   else besides to where you pointed to in your  
25   declaration, but that's not true. It's talking about

1 characterizing here, Dr. Stevenson; isn't that correct?

2           **A. Okay. Well, let me amend my previous**  
3 **statement since you're -- you want to be nitpicky about**  
4 **this. They don't talk about it in any different way.**  
5 **This is talking about it in exactly the same way as**  
6 **Column 6, as characterizing colors. So I guess I didn't**  
7 **cite every utterance of the phrase "characterizing," but**  
8 **I believe I cited how they used "characterizing" within**  
9 **the context of the patent, which is in characterizing**  
10 **colors and not in characterizing digital video images.**

11           Q. So what you're saying is, even though this  
12 cite talks about characterizing colors or color  
13 components in a real time digital video image, you're  
14 concluding that that's characterizing colors and not  
15 characterizing a real time digital video image?

16           **A. Well, that's what the sentence says.**

17           Q. If a color is in a real time digital video  
18 image and it's being characterized, doesn't it teach or  
19 provide guidance on how to characterize a real time  
20 digital video image, Dr. Stevenson?

21                       MR. RUNYAN: Objection, vague.

22           **A. If I talk about the broad concept of**  
23 **characterization or characterizing an image, there are,**  
24 **you know, things like the dimensions, the number of**  
25 **pixels, you know, when it was captured, that are**

1     technical in nature that have -- are relevant to any  
2     sort of implementation that I don't believe fall within  
3     the scope of the patent but which are captured by this  
4     idea of characterizing. So I don't believe they  
5     disclosed anywhere what they mean by characterizing a  
6     digital video image. They disclose ideas of how they're  
7     going to characterize colors.

8           Q.     (BY MR. LEE) Following your logic, when the  
9     patentee in the specification states in Column 1,  
10    line 46, in another format, a real time digital image  
11    features colors or color components characterized by the  
12    linear combinations of the basic color yellow, cyan, and  
13    magenta in the YCM color space, you would conclude that  
14    that's not characterizing a real -- teaching about  
15    characterizing a real time digital video image?

16           A.     As I -- as I've repeatedly said now -- I'm not  
17    sure why you keep going back to this, but I believe the  
18    patent does talk about characterizing color. It talks  
19    about it several places, as we've seen as you walked  
20    through, on how to characterize color in terms of things  
21    like RGB color space.

22                   The way that term is used in the claims is  
23    not that. It's not about characterizing colors.  
24    It's -- if it was about characterizing colors, we'd have  
25    a different conversation. It's about characterizing the



1     **digital image in a technical way. It's used in a way**  
2     **that we're saying we are doing something technically**  
3     **speaking.**

4                     **I don't know what the limits of that are**  
5     **in the claim. You -- this doesn't disclose that. It**  
6     **doesn't disclose that this is what they mean by**  
7     **characterizing the digital image.**

8             Q.     Can you provide a hypothetical in which  
9     characterizing would be disclosed, in your view?

10            **A.     I'm not sure what you're asking.**

11            Q.     You're saying characterizing is not disclosed  
12     in the patent for a real time digital video image. What  
13     would be an example of characterizing being disclosed  
14     that would satisfy your -- your level of scrutiny?

15                     MR. RUNYAN: Objection, irrelevant, lacks  
16     foundation, calls for speculation.

17            **A.     I think anything that clearly stated what the**  
18     **scope of the claim was in terms of how you go about**  
19     **characterizing the digital image would be -- would be**  
20     **fine.**

21            Q.     (BY MR. LEE) So it's your view, where the  
22     patent talks about characterizing in the patent, it  
23     doesn't satisfy you on what it means to be  
24     characterizing a digital video image as used in the  
25     claim term; is that what I understand it to be?

1           **A.    I think --**

2                       MR. RUNYAN:  Objection, mischaracterizes  
3  testimony.

4           **A.    I think -- I think I've been very clear.**

5   **The -- while the patent does talk about characterizing a**  
6   **color, no place could I find where someone of ordinary**  
7   **skill of the art having read the patent would understand**  
8   **what they mean by characterizing a digital image so that**  
9   **they would understand the scope of the claims.**

10                   MR. LEE:  Can we go off the record?

11                   MR. RUNYAN:  Sure.

12                   THE REPORTER:  Off the record.

13                   (Break taken from 2:52 to 3:02 p.m.)

14                   (Exhibit 4 marked.)

15           Q.    (BY MR. LEE)  I'm marking as Exhibit 4 an  
16  article entitled, "Estimation-theoretic approach to  
17  dynamic range enhancement using multiple exposures,"  
18  authored by Mark A. Robertson, Sean Borman, and Robert  
19  L. Stevenson.

20                   Do you recognize this article,  
21  Dr. Stevenson?

22           **A.    It's certainly been a long time since I've**  
23   **looked at it, but I recall it.**

24           Q.    This is something where you are a coauthor,  
25  correct?

1           **A.    Yes.   There's two -- the two other authors are**  
2           **Ph.D. students of mine.**

3           Q.    If I can point your attention to page 222 of  
4           this article, the right column, the last paragraph, the  
5           second sentence says: Note that accurately  
6           characterizing the noise term Nij would be extremely  
7           difficult as it would require detailed knowledge of the  
8           specific image capture process being employed.

9                         Do you see that there, Dr. Stevenson?

10          **A.    Yes.**

11          Q.    Do you understand what characterizing means  
12          for that sentence for this article?

13          **A.    Well, probably, a full explanation, we'd have**  
14          **to go into other parts of the article. But I'm**  
15          **certainly talking about how you might go about**  
16          **characterizing a noise in an imaging system.**

17          Q.    And how do you use "characterizing" in this  
18          context, in this article?

19          **A.    Here, I'm talking about the idea of -- well,**  
20          **without rereading the patent, I couldn't tell you for**  
21          **positive, but given the work I was doing at this time,**  
22          **I'm almost definitely talking about the idea of**  
23          **statistical characterization, so estimating something**  
24          **like a probability density function or distribution**  
25          **function so that I can work it into the estimation**

1     **problems that is being posed here.**

2           Q.     And in this context, you would understand what  
3     characterizing means?

4           A.     Because there's extensive discussion  
5     throughout this paper of noise and how you go about  
6     characterizing it, you know, kind of the exact opposite  
7     of the patent and the -- and the issue with the patent.

8                     And clearly, this sort of characterization  
9     I don't believe is a relevant -- is relevant to the  
10    patented technology, so it's -- it's again pointing out  
11    the problem with the patent.

12          Q.     Is there anything --

13          A.     Because we don't mean this.

14          Q.     But you do understand what characterizing  
15    means in this article- -- for this paper, correct?

16          A.     I feel like we're just going -- we're circling  
17    back to -- yes, and I agree that the word  
18    "characterizing," "characterization," that's a word in  
19    the English language. Someone can use it in an English  
20    sentence, and it makes sense.

21                     It doesn't -- you know, it doesn't address  
22    the issue that in the patent it's used in a technical  
23    way to talk about some aspect of a digital image that is  
24    not at all described in the patent.

25                     So I don't -- you know, beyond the fact

1     that I can agree that "characterization" is an English  
2     word, it just is not described in the patent. I don't  
3     know what they mean in the context of the claim.

4           Q.     Is your position on "characterizing"  
5     inconsistent with any of your prior publications,  
6     speeches, talks, papers?

7                   MR. RUNYAN: Objection, vague, lacks  
8     foundation.

9           A.     I -- you know, like I said, "characterization"  
10    is a word or "characterize" is a word I recognize from  
11    the English language. I believe it can be used by an  
12    English speaker and given context someone would  
13    understand what I might be talking about.

14                   Like, for example, in the paper, I was  
15    talking about characterizing the statistical properties  
16    of a noise source. That has a well understood technical  
17    meaning.

18                   Here, in the patent, they're using it in a  
19    technical way. They're talking about characterizing  
20    something, in this case, a digital image; yet they --  
21    they don't indicate how that is done, so it's -- it's  
22    just indefinite.

23           Q.     (BY MR. LEE) You don't have a legal  
24    background, do you, Dr. Stevenson?

25           A.     I do not.

1 Q. You don't have a law degree, do you?

2 A. I do not.

3 Q. Do you have legal experience to qualify you to  
4 provide a legal conclusion on whether the patent is  
5 definite or indefinite?

6 A. I'm not trying to provide a legal conclusion.  
7 I'm trying to provide an opinion of how one of ordinary  
8 skill in the art would understand terms in a claim.

9 In my opinion, from a technical person,  
10 having read that, would not know how that term is being  
11 used in that claim. And my understanding is, if a  
12 technical person doesn't understand how that word is  
13 used, doesn't understand its meaning in the scope of the  
14 claim, that's what I believe the lawyers call  
15 indefinite. So if I'm somehow using that wrong,  
16 that's -- I'm sorry I have the law slightly wrong.

17 My fundamental opinion is, one of ordinary  
18 skill in the art having read that term would not  
19 understand the scope of the claim, would not understand  
20 what is covered and what is meant by the phrase  
21 "characterizing" as it's used in the claims.

22 Q. If I could turn your attention to  
23 paragraph 27, this is the -- concerning the claim term  
24 "individual color," correct?

25 A. Yes.

1           Q.    You state that the term "individual color" is  
2   expressly defined in the '435 patent in Column 1,  
3   lines 20 to 21; is that correct?

4           **A.    That's what my sentence says.**

5           Q.    And you -- in your opinion, the term should be  
6   defined as a linear combination of colors or color  
7   components?

8           **A.    Yes.**

9           Q.    If I can turn your attention back to the  
10   '435 patent, Column 1, line 20 to 21: Herein, an  
11   individual color represents the linear combination of  
12   colors, color components, such as red, green, blue,  
13   yellow, cyan, and magenta.

14                    It goes on to say: Wherein, RGB color  
15   space the basic colors are -- color components are red,  
16   green, and blue.

17                    Do you see that, Dr. Stevenson?

18           **A.    Yes.**

19           Q.    Why did your definition stop at "linear  
20   combinations of colors or color components"?

21           **A.    Because the rest of that sentence doesn't**  
22   **really add anything to the definition. It's just kind**  
23   **of an example, I guess, tells you the next part of the**  
24   **definition.**

25           Q.    You said they defined it. That's a whole

1 sentence there. Why is the --

2 **A. Where did I say a whole sentence?**

3 Q. You cite to -- you cite to -- it's the last  
4 sentence of paragraph 27: This term is expressly  
5 defined in the '435 patent Column 1, 20 through 21.

6 So is it your position that that  
7 definition is -- stops at color components and then the  
8 other language, "such as red, green, blue, yellow, cyan  
9 and magenta" and so on is not part of the definition?  
10 How did you determine that that's the definition?  
11 Because that sentence says "herein," and it defines what  
12 individual color is.

13 **A. Well, I see --**

14 MR. RUNYAN: Objection, vague, compound.

15 **A. Well, I see everything after the -- I guess**  
16 **it's the second comma where it starts the "such as,"**  
17 **those are just kind of an example. I don't see where**  
18 **that's part of a definition. It's just here's an**  
19 **example of what I mean by that -- by the -- by the**  
20 **definition I just gave you.**

21 Q. (BY MR. LEE) What you're saying is an  
22 example, is it inconsistent with the definition?

23 **A. I'm sorry. I missed the words. "Consistent"**  
24 **or "inconsistent"?**

25 Q. So you're defining -- consistent --



1 inconsistent.

2                   You're defining, in your view, the  
3 definition should be "linear combination of colors or  
4 color components." I'm asking whether "such as red,  
5 green, blue, yellow, cyan and magenta" is inconsistent  
6 with your definition?

7           **A. I'm sorry. Something about the way you're**  
8 **saying "consistent," I can't tell if it's "consistent"**  
9 **or "inconsistent."**

10           Q. Inconsistent.

11           **A. Inconsistent. I view it as just an example.**  
12 **It's not -- it's inconsistent. It's just I don't need**  
13 **to go -- in terms of a definition, I don't need that in**  
14 **terms of a definition. It's just -- you know, it's a**  
15 **linear combination of color or color components, period.**  
16 **I could have rewritten that sentence easily, you know,**  
17 **combination of color or color components, period, for**  
18 **example, red, green, and blue, you know, provided an**  
19 **example that way. I mean, it's -- that's all I see. So**  
20 **I don't see why that should be part of the definition.**

21           Q. What's wrong with the plaintiff's definition  
22 of an individual color?

23           **A. I -- you'd have to remind me what their**  
24 **definition is.**

25           Q. I'm assuming you considered a definition

1 because you mentioned you reviewed the parties'  
2 constructions, as well as the '435 patent, its file  
3 history, your industrial knowledge in formulating your  
4 opinion. Was there anything wrong with the plaintiff's  
5 proposed construction?

6 **A. Well, as I --**

7 MR. RUNYAN: Objection, vague, compound.

8 **A. I did not memorize the definition, so I don't**  
9 **have your definition memorized. I definitely considered**  
10 **it. I definitely looked at it, and I considered it.**

11 **Sitting here today, since I don't have it**  
12 **memorized and you're asking me a very specific question**  
13 **about what is wrong with it, I would like to be reminded**  
14 **of what their -- your definition is. I don't have it**  
15 **written in here. I don't complain about it specifically**  
16 **that I know what it's -- I could recall. So I'm just**  
17 **asking for clarification of what your definition is if**  
18 **you want me to answer the previous question.**

19 Q. (BY MR. LEE) I'm trying to understand, when  
20 you wrote this declaration, if you had -- whether you  
21 had any issues with plaintiff's construction. You  
22 didn't --

23 **A. And you -- and you want me to answer that**  
24 **without --**

25 Q. Well, I mean, I guess, if you had any -- let

1 me ask it this way: If you had any issues with it,  
2 would you have put it in your declaration?

3 **A. And you want me to answer this without**  
4 **reminding me what the definition is?**

5 Q. I'm not -- I'm asking you if the -- that's not  
6 what I'm doing. You're twisting my words,  
7 Dr. Stevenson.

8 I'm trying to understand if you had  
9 issues with -- if you had issues with plaintiff's  
10 positions, would you not have put it in your  
11 declaration?

12 **A. Without recalling the definition, I don't know**  
13 **if I would have or not.**

14 Q. When you said you relied -- you reviewed the  
15 '435 patent and its file history, you didn't cite to the  
16 '435 patent file history, did you?

17 **A. I don't recall doing that. I recall the file**  
18 **history being pretty brief, not much there, one of the**  
19 **shorter file histories I've ever looked at.**

20 Q. Did you re- -- and I'm showing you the first  
21 page of the '435 patent. Did you review any of the  
22 patent documents that were cited on the face of the  
23 patent?

24 **A. I don't believe so. I don't recall any of**  
25 **those. I'd have to look at them, probably, to know for**

1       **sure.**

2           Q.     In Column 2 of the '435 patent, lines 8  
3     through 10, this patent talks -- refers to U.S. Patent  
4     Number 6,122,012 by the same inventor of the present  
5     invention. There's disclosed a method of selective  
6     color control of digital video images.

7                     Did you review the 6,122,012 patent in  
8     preparing and formulating your declaration?

9           **A.     Since it wasn't incorporated by reference, no,**  
10   **I did not, because it's not -- it's just a cite. If it**  
11   **had been incorporated by reference, I definitely would**  
12   **have.**

13          Q.     If I can turn your attention to paragraph 28,  
14    "Input Image Pixel," it's your opinion the term should  
15    be construed as image data including an integer row, an  
16    integer column, and color component values for each red,  
17    green, and blue.

18                     How did you come up with this definition?

19          **A.     From the patent, reading the patent.**

20          Q.     And that's why you wrote in the next  
21    paragraph, Number 29, "This is confirmed in the  
22    specification"; is that -- is that correct?

23          **A.     You know, I -- I wrote these two paragraphs**  
24    **based on how I understood that the term was being used**  
25    **by the patentee and how one of ordinary skill in the art**

1     **having read the patent would understand that term in the**  
2     **claim.**

3           Q.     And you considered -- did you consider the  
4     file history of the '435 patent for your -- for your  
5     proposed definition?

6           A.     **I did.**

7           Q.     Did you review the 6,122,012 patent in  
8     formulating your position?

9           A.     **You have to remind me what patent that is.**

10          Q.     That was the patent that was referenced in  
11     Column 1 -- Column 2 of the '435 patent by the same  
12     inventor.

13          A.     **Since it wasn't part of the intrinsic record,**  
14     **it didn't -- it didn't seem appropriate to be referring**  
15     **to that in terms of how one of ordinary skill in the art**  
16     **would understand that term in the -- in the patent, so I**  
17     **specifically would not have.**

18          Q.     What does "input image pixel" mean outside the  
19     context of the patent?

20          A.     **I didn't try to form a definition for it**  
21     **outside the context of the patent.**

22          Q.     In the digi- -- in your experience in the  
23     digital video image field, what does "input image pixel"  
24     mean to you?

25          A.     **It depends very much on the context. It means**

1 different things in different contexts.

2 Q. Can you provide examples?

3 A. Sure. In a -- in a camera system, so if I was  
4 building a digital camera or video camera, quite often  
5 we talk about the sensors that make up the CCD ray as  
6 the pixels or the input image pixel, so that -- that's  
7 the data that receives the light that generates  
8 something in a digital video system that we call a  
9 pixel.

10 In a -- in a display system, when we talk  
11 about monitors, the monitors we talk about the  
12 individual -- for example, an LCD monitor has individual  
13 pixels depending on where you're -- you know, what part  
14 of the system you're looking at, you talk about the CCD  
15 elements being input image pixels.

16 In the image processing, you know, with  
17 some of the processing stuff you see, it has to do with,  
18 you know, aspects of the image. So it depends on the  
19 context.

20 Q. What is a preferred embodiment?

21 MR. RUNYAN: Objection, calls for a legal  
22 conclusion.

23 A. You know, my understanding of, you know, this  
24 concept of what the lawyers call "preferred embodiment"  
25 is that the -- you know, the patent -- the claims of the

1 patent's scope are not limited necessarily by the --  
2 what's called the preferred embodiment in the patent,  
3 you know, whatever the inventor thought what was the  
4 best way of implementing their particular invention was.

5 And so we talk about, you know, the  
6 patentee, when they write the specification, might  
7 clearly lay out what they think is the best way of  
8 implementing it, and that's called the preferred  
9 embodiment, but the scope of the claims can be broader  
10 than that.

11 Q. (BY MR. LEE) Moving on to the next term,  
12 "Forming a corresponding plurality of output image  
13 pixels having said selected individual color,"  
14 paragraph 30 of your declaration, you define that term  
15 to be: Forming a plurality of output image pixels that  
16 correspond to one of the plurality of input image pixels  
17 that have said selected individual color in the real  
18 time digital video input image with the hue or the  
19 saturation selected to be independently changed, the  
20 output image pixels having said selected individual  
21 color.

22 How did you come up with -- how did you  
23 come up with this definition, Dr. Stevenson?

24 A. Well, in this particular element, the -- I  
25 thought there needed to be some clarification because of

1 the -- you know, you might say the context of the  
2 patent.

3 The -- in particular the idea of what was  
4 the selected individual color, you know, that's  
5 something that comes from earlier in the claim. And  
6 this is -- you know, this is talking about -- and that's  
7 not just clear -- that's not really -- what that means  
8 is not completely clear from, you know, this phrase by  
9 itself, and so I felt there was some clarity needed  
10 about what was contained in the output image pixels,  
11 right?

12 So this -- so you know -- but the language  
13 is trying to get across that it has the selected  
14 individual color which is the color that the individual,  
15 the viewer, had chosen as the one we're going to modify  
16 the hue and possibly modify the hue and saturation of.  
17 So I thought the definition provided clarity.

18 Q. And you cite to the Column 11, lines 14  
19 through 30, to support your position; is that correct?

20 A. That looks like something I cite, yes.

21 Q. How does your definition provide clarity?

22 MR. RUNYAN: Objection, asked and  
23 answered.

24 A. As I -- as I said already, I thought the  
25 phrase by itself, it was un- -- it -- you had to



1 understand what the selected individual colors that's  
2 being referred to as part of the output image, what that  
3 was referring to. And that was -- you have to look at  
4 the rest of the claim to understand that. And so what's  
5 the selected individual colors are, you know, what I put  
6 in the definition there, it's the colors -- the  
7 individual colors that the viewer had selected in order  
8 to, you know, selectively change the hue or saturation.

9 Q. (BY MR. LEE) The next term, "By performing  
10 arithmetic and logical operations," it's your opinion  
11 that this term is indefinite, correct?

12 A. Yes.

13 Q. Why is it -- why, in your opinion, is it  
14 indefinite?

15 A. It's -- it's not identifying in the claim  
16 language, you know, how it's used in the claim, it's,  
17 you know, just based on the plain English language,  
18 quite frankly. It's not -- we don't know what operation  
19 is done by performing arithmetic and logical  
20 operators -- operations.

21 There's two in the claim that possibly  
22 could be it depending on, you know, which one you  
23 choose. Or maybe, I guess, you could choose both. I  
24 don't know. But the claim is just -- you know, this  
25 causes the claim to be indefinite because we don't know

1     what we are doing by performing arithmetic and logical  
2     operations.

3                     I think I spell it out. It's -- this  
4     aspect about identifying particular pixels and another  
5     one about changing them. I don't know, from the way the  
6     claim language is written, which one of those things is  
7     done by performing arithmetic and logical operators.

8             Q.     The next term, "Evaluating and Evaluated," why  
9     are those term -- why are the terms "evaluating" and  
10    "evaluated," in your opinion -- why is it your opinion  
11    that these two -- that these terms are indefinite?

12            A.     Well, it's somewhat similar to our previous  
13    conversation about "characterizing." I recognize the  
14    words "evaluating" and "evaluated" are part of the  
15    English language and can be used in the English  
16    language. But here in the context of the claims,  
17    they're talking about something particularly technical  
18    and something that's being evaluated.

19                    In fact, we call it something about the --  
20    the hue control and saturation control is being  
21    evaluated. I could find nothing in the patent that is  
22    telling me what that means. I don't know how to  
23    evaluate hue control or the -- or the saturation  
24    control, so I don't know what that means.

25                    And I don't think someone of ordinary

1     **skill in the art would understand what they mean and**  
2     **what scope they're -- the claim they're trying to claim**  
3     **here with that use of that language.**

4           Q.     And this is -- you give the same similar  
5     reasons for "characterizing" that you had earlier in our  
6     discussion; isn't that correct?

7           **A.     Well, I mean, I think my position has --**

8                   MR. RUNYAN:   Could you -- I didn't hear  
9     that question clearly at all.   I'm sorry.   Could you  
10    repeat that, John?

11                  MR. LEE:   Yes.

12           Q.     (BY MR. LEE)   Is your -- we went round and  
13    round on "characterizing" earlier.   Is your opinion on  
14    "evaluating" and "evaluated" using a similar rationale  
15    as "characterizing"?   Or --

16           **A.     Well, I -- it's similar --**

17                   MR. RUNYAN:   Objection, vague.  
18    Objection, vague, mischaracterizes testimony, compound.

19           **A.     It's similar in the sense I already mentioned.**

20           Q.     (BY MR. LEE)   So when it says evaluating, you  
21    know, independent color hue control functions, you don't  
22    know what exactly of hue -- of hue control color  
23    function is being evaluated?   Is that what you're  
24    saying?

25           **A.     I don't -- I don't know how to perform that**

1     **evaluation. I don't know what that evaluation entails**  
2     **or what the scope of that evaluation is. It actually**  
3     **doesn't make much sense to me to use "evaluating" in**  
4     **that context, but they do. And I don't find it -- I**  
5     **don't find any way -- I don't find anything in the**  
6     **patent that illuminates what they mean there.**

7           Q.     So if -- when we go to the '435 patent, Column  
8     Number -- Column Number 11, line 62, and it goes -- it  
9     talks, in context, as having the individual color in  
10    real time digital video input image whose hue or  
11    saturation was selected to be independently changed by  
12    separately evaluating independent color hue control  
13    functions, F, color -- F, function, color hue or  
14    independent color saturation control functions.

15                   That doesn't help provide guidance on what  
16    "evaluating" means?

17           A.     No. If I recall, that's pretty much the same  
18    language that's used in the claim, so it provides no  
19    clarity whatsoever about what the claim means. It's --  
20    I think it's pretty much a repeat.

21                   That sentence says nothing about how you  
22    actually do an evaluation or what that evaluation might  
23    be. It just says you're going to do it.

24                   MR. LEE: If we could take another quick  
25    break for another 10 minutes.

1 MR. RUNYAN: All right.

2 (Break taken from 3:41 to 3:50 p.m.)

3 Q. (BY MR. LEE) Dr. Stevenson, for the term  
4 "viewer," you rendered a legal opinion, correct?

5 A. I rendered a what?

6 Q. A legal opinion that the claim term is --  
7 your -- it's your opinion the term requires -- must be  
8 performed by someone as claimed; is that correct?

9 A. I'm sorry. Your question started one way and  
10 went a different direction. Maybe you could state a  
11 clear question.

12 Q. Paragraph Number 40, you write that viewer  
13 means a human; as used in Claim 17, it illustrates that  
14 the recited method steps, as discussed below, must be  
15 actually performed by someone, as claimed.

16 Is that correct?

17 A. You read -- you part of my paragraph 17 --  
18 40 correctly, yes.

19 Q. And the supporting evidence -- or the evidence  
20 in support of your opinion is identified in  
21 paragraph 41, correct?

22 A. Yes, that's part of what I tried to do in 41.

23 Q. Is there any other evidence that supports  
24 your position that's not cited in the declaration of  
25 yours?

1           A.    I think there's at least some other language  
2   where they talk about a viewer, but it's pretty much the  
3   same sort of language as this.  Maybe -- maybe it's in  
4   that string cite at the bottom.  Maybe they're all cited  
5   there.

6                       But I know I -- I talk about one here.  I  
7   quote one particularly here.  But I know they use the  
8   same -- the word "viewer" a couple different times in  
9   the patent all meaning the same thing.  They seem very  
10  consistent.  They're talking about a user of the system.

11           Q.   And if there were any additional cites that  
12  you thought would be helpful, you would have included it  
13  in your declaration?

14           A.    I thought those were the most useful.  I  
15  thought they were -- they made the point very well of  
16  how the patentee was using the word "viewer" and how one  
17  skilled in the art would understand the word "viewer" in  
18  the claim.

19           Q.    For the next term, in the paragraph heading H,  
20  "All method steps, or the combination of method steps  
21  and system elements in a single claim," it's your  
22  opinion -- what is your opinion about this claim term,  
23  Dr. Stevenson?

24           A.    Well, I'd --

25                       MR. RUNYAN:  Objection, vague as --

1 objection, vague as to "claim term."

2           **A.**     In Section H, paragraphs, what, 42 through 44,  
3 I talk about, you know, my understanding -- you know,  
4 I've seen this in a couple other cases where this --  
5 this idea of -- I don't know what you want to call it.  
6 There's probably some legal term, but some sort of  
7 hybrid claim where it's both a system and a -- and a  
8 method. That's not a proper structure for a claim, and  
9 so that's what I'm talking about in Section H.

10           **Q.**     (BY MR. LEE) The basis of your opinions in  
11 your declaration is based upon your review of the  
12 '435 patent; is that correct?

13           **A.**     Well, I mean, probably most importantly for  
14 this one, it's the claim language and what the claim  
15 language lays out.

16                   Now, certainly, I get my understanding of  
17 what that claim language is laying out and the fact that  
18 some of the operations are talking about a human  
19 performing some steps and the other operations are about  
20 a system, you know, comes from the -- from the -- from  
21 the patent.

22           **Q.**     You testified earlier that you considered the  
23 '435 file history; is that correct?

24           **A.**     Yes.

25           **Q.**     Your declaration doesn't cite to the

1 '435 patent file history, does it?

2       **A. My recollection is the file history of the**  
3 **'435 is very brief. I think it was like -- something**  
4 **like a hundred pages. There was not much discussion**  
5 **about any -- I don't recall any discussion of claim**  
6 **terms or, you know, things that were particularly**  
7 **relevant to any of the terms at issue, so it doesn't --**  
8 **it doesn't surprise me that there's no cites to anything**  
9 **in there.**

10       Q. So your opinions, then, is based on the  
11 '435 patent?

12       **A. Well, it's also --**

13       Q. And what else?

14       **A. -- based on the file history.**

15       Q. Is there anything else that your opinion is  
16 based upon?

17       **A. My knowledge and understanding of what a**  
18 **person of ordinary skill in the art would know at the**  
19 **time of the invention.**

20       Q. And your declaration provides -- states all  
21 the bases for your opinion -- bases and support for your  
22 opinions; is that correct?

23       **A. I believe that the bases for my opinion are**  
24 **well spelled out in my declaration and, you know,**  
25 **provide the necessary insight to understand how I**



1       reached the opinions I did.

2           Q.    Is there anything that you relied upon that's  
3   not disclosed in your declaration?

4           A.    Is this question somehow different than the  
5   last ten times you've asked that question? I mean, I  
6   feel like we've gone around and around on this. It's --  
7   I've repeated this answer over and over again.

8                   Things I relied on were the '435, its file  
9   history, my knowledge and experience, especially of  
10   the -- what a person of ordinary skill in the art would  
11   know at the time.

12                   If I had relied on anything else, I would  
13   have cited it in the body of my declaration. We've gone  
14   through pretty much every paragraph, and I didn't see  
15   any additional cites outside that, so I don't know of  
16   anything else. I don't believe I relied on anything  
17   else.

18           Q.    Earlier you testified that you spend about  
19   75 percent of your time working at Notre Dame and the  
20   other 25 percent of your time doing consulting work; is  
21   that correct?

22           A.    I gave you rough -- rough values. You know, I  
23   said 75 percent at Notre Dame, 20, 25 percent doing  
24   these sort of consulting things.

25           Q.    What is your annual income at Notre Dame?

1           **A. I don't know. I'd have to look it up.**

2           Q. What's your -- do you know what your salary is  
3 at Notre Dame?

4                   MR. RUNYAN: Objection, irrelevant.

5           **A. No.**

6           Q. (BY MR. LEE) How much money have you earned  
7 as a consultant in the past year?

8           **A. I don't really track these things. My wife**  
9 **does all the bills and all the taxes, so until I sign**  
10 **things, I don't really know -- pay attention.**

11          Q. Do you earn more as a consultant or more as  
12 working at Notre Dame?

13          **A. Well, even though I spend more time working at**  
14 **Notre Dame, I probably earn more as a consultant most**  
15 **years.**

16          Q. How much more?

17          **A. I don't know. I mean, I really have no idea**  
18 **at this point.**

19          Q. And you don't know how much you've billed on  
20 this case so far?

21          **A. No. I have to go back and look at some**  
22 **records. I mean, I can know. I just -- I don't pay**  
23 **much attention to these numbers. I've got other things**  
24 **to think about.**

25                   MR. LEE: I have no further questions at

1     this point.

2                     Ed, if you have any questions, please  
3     proceed.

4                     MR. RUNYAN: I don't have any questions.

5                     MR. LEE: Andrew?

6                     MR. OLIVER: No questions from me.

7                     MR. LEE: Dr. Stevenson, thank you for  
8     your time.

9                     THE WITNESS: No problem. Good bye.

10                    (Momentary off-the-record discussion.)

11                    THE REPORTER: It is 4:01, and the  
12     deposition has concluded. Thank you.

13                    (Proceeding concluded at 4:01 p.m.)

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1	CHANGES AND SIGNATURE		
2	WITNESS NAME: ROBERT STEVENSON, Ph.D.		
3	DATE: April 7, 2020		
4	Reason Codes: (1) to clarify the record; (2) to conform		
5	to the facts; (3) to correct a transcription error; (4)		
	other (please explain).		
6	PAGE LINE	CHANGE	REASON
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1 I, ROBERT STEVENSON, Ph.D., have read the  
2 foregoing deposition and hereby affix my signature that  
3 same is true and correct, except as noted above.

4

5 \_\_\_\_\_  
ROBERT STEVENSON, Ph.D.

6 THE STATE OF \_\_\_\_\_)

7 COUNTY OF \_\_\_\_\_)

8

9 Before me, \_\_\_\_\_, on  
10 this day personally appeared ROBERT STEVENSON, Ph.D.,  
11 known to me (or proved to me under oath or through  
12 \_\_\_\_\_) (description of identity  
13 card or other document)) to be the person whose name is  
14 subscribed to the foregoing instrument and acknowledged  
15 to me that they executed the same for the purposes and  
16 consideration therein expressed.

17 Given under my hand and seal of office this  
18 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

19

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22

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF \_\_\_\_\_

23 COMMISSION EXPIRES: \_\_\_\_\_

24

25

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE EASTERN DISTRICT OF TEXAS  
3                   TYLER DIVISION  
4           LONE STAR TECHNOLOGICAL           §  
              INNOVATIONS, INC.,           §  
5                   Plaintiff,           §  
   §   CIVIL ACTION  
6                                   v.           §  
   §   NO.: 6:19-cv-00059-RWS  
7           ASUSTEK COMPUTER, INC.,       §  
   §  
8                   Defendant.           §

9  
10  
11                   -----  
12                   REPORTER'S CERTIFICATION  
13                   DEPOSITION OF ROBERT STEVENSON, Ph.D.  
14                                   APRIL 7, 2020  
15                                   VOLUME 1 OF 1  
16                   -----

17  
18  
19           I, April R. Brunson, Certified Shorthand Reporter in  
20   and for the State of Texas, hereby certify to the  
21   following:

22           That the witness, ROBERT STEVENSON, Ph.D., was duly  
23   sworn by the officer and that the transcript of the oral  
24   deposition is a true record of the testimony given by  
25   the witness;

1 I further certify pursuant to FRCP Rule 30(f)(1)  
2 that the examination and signature by the deponent was  
3 requested by the deponent or a party before the  
4 completion of the deposition and that, therefore, the  
5 deposition transcript was submitted on the 13th day  
6 of April, 2020, to the witness or to the  
7 attorney for the witness for examination and signature  
8 before any notary public and to be returned to me within  
9 30 days from date of receipt of the transcript.

10 If returned, the attached Changes and Signature Page  
11 contains any changes and the reasons therefore;

12 That pursuant to information given to the deposition  
13 officer at the time said testimony was taken, the  
14 following includes counsel for all parties of record:  
15

16 FOR THE PLAINTIFF:  
17 Mr. John Lee  
18 BANIE & ISHIMOTO, L.L.P.  
19 3705 Haven Avenue  
20 Suite 137  
Menlo Park, California 94025  
650.241.2771  
650.241.2770 (Fax)  
jlee@banishlaw.com

21 FOR THE DEFENDANT ASUSTEK COMPUTER, INC.:  
22 Mr. Andrew T. Oliver  
23 AMIN, TUROCY & WATSON, LLP  
24 160 West Santa Clara Street  
25 Suite 975  
San Jose, California 95113  
650.393.0634  
aoliver@atwiplaw.com

1 FOR THE DEFENDANT BARCO N.V.:  
Mr. Edward K. Runyan  
2 NEUSTEL LAW OFFICES, LTD  
2534 South University Drive  
3 Suite 4  
Fargo, North Dakota 58103  
4 701.281.8822  
701.237.0544 (Fax)  
5 edward@neustel.com

6 That the amount of time used by each party at the  
7 deposition is as follows:

8 MR. LEE - 2 hours, 9 minutes  
MR. OLIVER - 0 minutes  
9 MR. RUNYAN - 0 minutes

10 That \$\_\_\_\_\_ is the deposition officer's charges  
11 to the Plaintiff for preparing the original deposition  
12 transcript and any copies of exhibits;

13 I further certify that I am neither counsel for,  
14 related to, nor employed by any of the parties or  
15 attorneys in the action in which this proceeding was  
16 taken, and further that I am not financially or  
17 otherwise interested in the outcome of the action.

18 Certified to by me this 13th day of  
19 April, 2020.

20

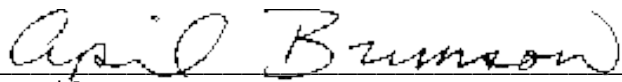
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April R. Brunson  
Texas CSR No. 7495  
Expiration Date: 4/30/2022  
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Firm Registration No. 814  
314.421.0099



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